

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALONZO SMITH,) Docket No. 16 C 3404
)
Plaintiff,)
)
vs.)
)
JON BURGE, et al.,) Chicago, Illinois
) August 15, 2018
Defendants.) 8:35 o'clock p.m.

EXCERPT OF PROCEEDINGS - MOTIONS
BEFORE THE HONORABLE AMY J. ST. EVE

APPEARANCES:

For the Plaintiff: PEOPLE'S LAW OFFICES
BY: MR. G. FLINT TAYLOR, JR.
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MR. BRAD THOMSON
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For Deft. Burge,
Byrne & Dignan: HALE LAW, LLC
BY: MR. ANDREW M. HALE
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For Defts. Shines,
Needham, Hillard, Daley
& Estate of Leroy Martin: REITER BURNS, LLP
BY: MR. TERRENCE M. BURNS
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For Deft. Cook County
Paul Kelly: COOK COUNTY STATE'S ATTORNEY'S and
OFFICE
BY: MS. ALLYSON LYNN WEST
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BY: MS. ELIZABETH S. RALPH
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APPEARANCES (Cont'd):

Court Reporter: MR. JOSEPH RICKHOFF
Official Court Reporter
219 S. Dearborn St., Suite 1232
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(312) 435-5562

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PROCEEDINGS RECORDED BY
MECHANICAL STENOGRAPHY
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1 THE CLERK: 16 C 3404, Smith vs. Burge.

2 THE COURT: Good morning.

3 MS. MOGUL: Good morning.

4 MR. TAYLOR: Good morning.

5 MS. MOGUL: Joey Mogul here on behalf of the
6 plaintiff, Mr. Smith.

7 MR. TAYLOR: Flint Taylor on behalf of the plaintiff.

8 MR. THOMSON: Brad Thomson also on behalf of
9 plaintiff.

10 MS. RALPH: Elizabeth Ralph on behalf of the City of
11 Chicago.

12 MR. FLYNN: Kyle Flynn on behalf of the City of
13 Chicago.

14 MR. HALE: Andy Hale on behalf of defendants Byrne,
15 Burge and Dignan.

16 MR. MICHALIK: Paul Michalik and Terry Burns on
17 behalf of defendants Hillard, Needham, Shines, Estate of
18 Martin, and Daley.

19 MS. WEST: Good morning, your Honor, Allyson West on
20 behalf of Cook County and Paul Kelly.

21 MR. KUHN: Derek Kuhn, K-u-h-n, on behalf of Cook
22 County and Paul Kelly.

23 THE COURT: Would you give me that again, please?

24 MR. KUHN: Derek Kuhn, K-u-h-n.

25 THE COURT: Thank you.

1 You are here for two motions this morning. I have
2 defendants' joint motion to bar Richard Rosenthal and
3 defendants' joint motion for an expedited briefing schedule.

4 Is there any objection to the expedited briefing
5 schedule?

6 MS. MOGUL: Well, yes, your Honor. And let me --
7 just for clarification, I believe you denied part of their
8 motion.

9 THE COURT: I did.

10 MS. MOGUL: Okay.

11 THE COURT: That is why only part of that, that is
12 pending, is for expedited briefing schedule.

13 MS. MOGUL: Okay.

14 THE COURT: Not for an extension, because I do not
15 see the purpose of delaying things any further at this point.

16 MS. MOGUL: Okay.

17 So, our -- I guess our objection would be this: If
18 they want to do an expedited briefing schedule, we don't
19 believe there should be any depositions and we should proceed
20 with the motion. But we don't want to fight over the motion,
21 then have his deposition, and then re- -- you know, fight over
22 another motion again.

23 I think there's one bite at this apple. So, the
24 defendants need to decide, do they want to depose our expert
25 or not and then proceed with this Daubert challenge, or do

1 they just want the Daubert challenge?

2 THE COURT: Who wants to take this?

3 Ms. Ralph?

4 MS. RALPH: Yeah, on the part of the City, I can say
5 we don't intend to take Mr. Rosenthal's deposition, and we're
6 prepared to proceed with the Daubert motion at this time.

7 THE COURT: And do you realize you only get one bite
8 at the apple?

9 MS. RALPH: Understood.

10 MR. MICHALIK: Yes.

11 THE COURT: So, from all of the defendants'
12 standpoint -- you do only get one bite at the apple -- are you
13 fine proceeding based on briefing without a deposition and
14 then, if the motion is denied, you will go forward with the
15 deposition, and then there will be no Daubert on the
16 deposition; or, do you want to proceed with the deposition and
17 then do it all at once? Which --

18 MR. MICHALIK: I think we're ready just to proceed
19 with the Daubert motion.

20 THE COURT: Let me ask, do any of the defendants
21 object to proceeding with your one-shot Daubert without the
22 deposition of the expert Mr. Rosenthal?

23 MR. HALE: Your Honor, can I just have a two-minute
24 timeout right here just to confer real quick?

25 THE COURT: Yes.

1 (Counsel confer.)

2 MR. HALE: Thank you, your Honor, for the courtesy.

3 I think the defendants are all in agreement with
4 proceeding the way Ms. Ralph suggested.

5 THE COURT: Okay.

6 So, no one objects to proceeding with this Daubert
7 motion without the deposition of Rosenthal, knowing you only
8 get one shot?

9 MR. HALE: Correct.

10 THE COURT: All right.

11 So, then the expedited briefing schedule will work.

12 MS. MOGUL: Okay.

13 THE COURT: So, I will grant the motion for an
14 expedited briefing schedule.

15 (Brief pause.)

16 THE COURT: I am looking for your proposed response
17 date.

18 MS. MOGUL: Well, your Honor, I mean, we're going to
19 ask --

20 THE COURT: I do not think there was.

21 MS. MOGUL: There was not.

22 So, we're going to ask for three weeks. This is a
23 substantive motion. You know that these Daubert issues are
24 complicated. They took three weeks to file this -- or close
25 to three weeks to file this. We need the same.

1 THE COURT: Three weeks?

2 MS. RALPH: Fine.

3 THE COURT: Okay.

4 Three weeks to respond.

5 THE CLERK: September 5th.

6 THE COURT: And ten days to reply.

7 THE CLERK: September 17th.

8 THE COURT: Is there anything else while you are
9 here?

10 MR. HALE: I don't think so.

11 MS. RALPH: Nothing further from the City.

12 THE COURT: Mr. Burns, did we need to have a sidebar
13 for any reason with respect to your client, or not today?

14 MR. BURNS: Actually, very briefly, your Honor, if I
15 may.

16 THE COURT: Sure.

17 MR. BURNS: Please.

18 THE COURT: Okay.

19 So, we have another status set --

20 MS. MOGUL: For September 12th, your Honor.

21 THE COURT: Yes. So, that date will stand.

22 And I think you are calling in, Ms. Mogul.

23 MS. MOGUL: Yes.

24 THE COURT: That date will stand. I will take up
25 anything else at that point. Obviously, the Daubert will not

1 be fully briefed, so I will not have a ruling for you on that
2 yet.

3 MR. HALE: Thank you, your Honor.

4 THE COURT: Okay. I will see you September 12th.

5 And, then, plaintiff's counsel and Mr. Burns.

6 (End of excerpt.)

7 * * * * *

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9 I certify that the foregoing is a correct excerpt from the
10 record of proceedings in the above-entitled matter.

11 /s/ Joseph Rickhoff
12 Official Court Reporter

October 24, 2018

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